

## DEUEL SAYS COURT CANNOT OUST HIM

Through Counsel He Fights Petition for Removal and Questions Jurisdiction of Judge.

## CITY'S CHARTER ATTACKED

Tells Bar Association He Is Not Conscious of Having Violated Law by Entering Business.

After hearing an application for the removal of Judge Joseph M. Deuel from the Special Sessions Court, Judge Ingraham, in the Appellate Division of the Supreme Court, yesterday afternoon, said the first question was as to the jurisdiction of the court. Decision on this point was reserved, the court giving Edward Lauterbach, counsel for Judge Deuel, until Monday to submit a statement on the matter. Howard S. Gans presented the petition, which was in the names of District Attorney Jerome, James W. Osborne and Edward M. Shepard. Mr. Lauterbach replied, taking up three-fourths of the time allotted to the case, and raising the question whether the court could properly have jurisdiction of the petition.

Judge Deuel entered the court room with his counsel and took a seat in a crowd of lawyers. His face was slightly flushed and he kept his eyes on Mr. Lauterbach. After the announcement of reserved decision he walked from the building alone, only to encounter on the sidewalk a photographer, who snapped a camera at him. The Judge struck at the camera with his cane, crying out, "Stop that!" and retreated hastily into the court building.

Mr. Gans briefly reviewed the case against Norman Hapgood, who was accused by Judge Deuel of libel and was acquitted. He also referred to Town Topics, in which the Judge had financially interested, and which financial interest is the basis of the petition.

Mr. Lauterbach in reply rapped at District Attorney Jerome, saying that while he purported to represent the prosecution in the Hapgood trial he appeared in reality for the defense. He said the petitioners had made no real charge of malfeasance or misfeasance in office, and asserted that that provision of the city charter relating to the removal of judges and providing that they shall devote all their time and capacity to the public interest was unconstitutional and void. "This court is without jurisdiction," said "I contend that a judge has no right to carry on a useful business so long as it does not militate against his judicial duties."

"If Judge Deuel is an criminal act let him be indicted and tried regularly," said Mr. Lauterbach. "If he is convicted, then he is ipso facto removed."

## "NOT GUILTY," SAYS MANN.

Counsel Taunts District Attorney and Asks for Early Trial.

"Not guilty!" was the response of counsel for Colonel William A. Mann, when the editor and publisher of Town Topics appeared before Judge O'Sullivan, in General Sessions Court, yesterday, to answer to an indictment for perjury.

"Colonel Mann asks that an early date be set for his trial," said Martin V. Littleton, his counsel. "He is innocent, either be declared guilty of this charge or to have the stain removed from his name."

"The defendant will have his day in court," said District Attorney Jerome. "When he will be able to vindicate himself is his own affair. But the District Attorney will try the case when he gets ready."

"I hope he gets a fair trial and not an ex-parte trial, as he did before," replied Mr. Littleton.

Mr. Jerome promised to agree to an early date.

## TO HEAR PERJURER'S STORY.

Rogers, Who Swore to the Parkhurst Murder Plot, May Have Sent Innocent Men to Prison.

Lawrence Rogers, who admitted he had perjured himself when he swore he had been hired by Sergeant Shields and Police- man Phelan to murder the Rev. Dr. Charles H. Parkhurst, may have been in similar plots which have resulted in innocent men being sent to prison.

When Rogers was taken before Judge O'Sullivan, in General Sessions Court, yesterday, his lawyer asked that sentence be deferred, saying his client's story should be investigated.

"I don't want to hear," said Judge O'Sullivan. "There may be a score of innocent men in jail according to what Rogers says. I don't know that it is the truth, but it should be investigated."

Judge O'Sullivan said he would not send Rogers until Friday, adding he would have Assistant District Attorney Hart learn what he has to tell.

Men who know all about Real Estate tell what is the prospect in this territory. In the HERALD'S Real Estate Section, issued Wednesday, March 28.

## TO CREMATE DOG WITH HER.

Woman, in Her Will, Wants Her Pet Chloroformed and Disposed of as Her Body Is to Be.

In a codicil to her will executed on September 3, 1901, at No. 245 West 11th street, Mrs. Neva Marsh, formerly of 47 Clinton place, says: "I wish to be cremated. If my little dog Beauty is living when I die I wish her to be chloroformed and cremated with me, and scatter my ashes to the winds."

Mrs. Marsh left an estate of \$3,000 in personal property. Her will has been offered for probate. Thomas and Clara Hely, children of Benjamin M. Hely of Marion, Ala., inherit the property. Mrs. Marsh died on December 13 last.

## MANY CHARITY REQUESTS.

Mrs. Helen E. Cole Leaves Sums of Money to Various Institutions.

Mrs. Helen E. Cole, widow of Hugh L. Cole, by her will, filed yesterday, disposes of a large estate, the bulk of which goes to her sisters, Sallie T. Postlethwaite and Mary M. Weir, and her brother, Ralph N. Ellis. Mrs. Cole died on February 5. She was 78 years old.

Other bequests are: \$3,000 to the Woman's Hospital, and to the Green Acre Fellowship in left hand, to the lot, Me., and \$12,000 with which to erect a cottage for the use of the fellowship.

## SENATOR DEFEW IMPROVING.

It Is Said He Will Be in His Home Here by Wednesday.

Favorable reports continue regarding Senator Defew, although it is thought best by his family to maintain the secrecy of his whereabouts.

It was announced yesterday that he would be at his home, in Fifty-fourth street, by Wednesday of next week, and that within a few days thereafter he would return to his place in the Senate in Washington.

Parker Didn't Suggest McCallan.

Aiton B. Parker yesterday denied the report circulated by a news association last week to the effect that he had advocated the nomination of Mayor McCallan as the democratic candidate for President in 1908.

He said, that such a suggestion from him would not be in accord with the Mayor's desire, in view of his declaration that he would not again be a candidate for public office.

## \$40,000 A YEAR TO ABOUT HEIGHTON

MRS. J. HUNTINGTON ELSBERG BILL

In Divorce Settlement She Takes Income of \$1,000,000, Disappointing Her Relatives.

## CHILDREN PROVIDED FOR

If Wife Should Die Before Husband the Trust Lapses and Money Reverts.

[SPECIAL DESPATCH TO THE HERALD.] SAN FRANCISCO, Cal., Friday.—Mrs. Huntington's share in the great wealth of her divorced husband will be \$40,000 a year, the income on a trust fund of \$1,000,000 in four per cent securities. This is declared to be the basis of the settlement between the railway man and his wife preceding the petition for divorce.

Mrs. Huntington has been worth \$300,000 in her own right for several years past, and, among other things, owns the family residence in this city. If Mrs. Huntington dies before Mr. Huntington the trust lapses and the money becomes her property again. This arrangement he prevents this million dollars from going to any of her blood relatives.

Mr. Huntington is said to be determined that his former wife's mother, Mrs. Clara Prentiss, of Sacramento; her brother, Harry Prentiss, of this city; and her sister, the Princess Hatfield, of London, shall not enjoy any of his wealth if he can help it. Mr. Huntington has agreed to provide for the children. He allows the two married daughters, Mrs. G. B. Perline and Mrs. J. K. Mott, each \$10,000 a month, and the unmarried daughter, Marian, \$800 a month.

He is on good terms with all of his children, and their mother never had any fear of their not being well provided for by their father during his lifetime and by his will after his death.

Mrs. Huntington's relatives are not pleased with the divorce arrangements she has made with her husband. The Princess Hatfield wanted her sister to fight for as big a settlement as she could get, but Mrs. Huntington accepted the terms Mr. Huntington offered.

## HOLDS UP TUNNEL REPORT.

Court Refuses to Confirm Awards for Property To Be Taken by Gas Company.

By a decision of Judge O'Gorman, of the Supreme Court, the report of Senator Thomas F. Grady, Thomas F. Byrne and Peter J. Dooley, County Clerk, who were appointed to determine what compensation the city and State should receive from the East River and Ward's island, has been refused confirmation. The matter will be referred to new commissioners.

Corporation Counsel Delany's contention was that the gas company would save \$100,000 if it had the opportunity of dealing itself of the property on Ward's island, which belongs to the city. The commission, which was to be paid by the gas company for the fee in the property it desired and easements in the property owned by the State and city at \$6,000.

Judge O'Gorman says the awards are wholly insufficient, and that in several instances are below the estimates of value.

## MOTORMAN GETS TEN YEARS.

Conductor Who Tried to Run a Car and Killed Driver Is Sent to Prison.

As the first motorman to be convicted of manslaughter for the sacrifice of a human life as a result of his negligence, Albert Grant, of No. 24 East Fifty-ninth street, was sentenced to imprisonment for ten years by Judge Foster in General Sessions Court yesterday. In imposing sentence the judge said:

"As a warning to careless motormen and chauffeurs it is my duty to impose a heavy sentence on you as an object lesson against the negligence of such men. It has been the cause of the Metropolitan Street Railway Company nearly two million dollars a year to settle damage suits, the results of carelessness and gross negligence, to say nothing of the loss of life and limb and the suffering caused by such men as you."

Grant was the conductor of a Lexington avenue car, but took control as a motorman while the motorman was in the car. The car hit a mail wagon, killing Bernard McDonald, the driver.

## AFFIRMS WICKES CONVICTION.

Appellate Court Decides Against Lawyer Who Sent Letters Signed "Lewis Jarvis."

In the Appellate Division of the Supreme Court yesterday the conviction of Thomas P. Wickes, charged with blackmail, was affirmed.

Wickes is a lawyer and was convicted of sending annoying letters signed "Lewis Jarvis."

In his opinion, in which the others of the court concur, Judge Clarke says: "The blackmail denounced by the statute was the result of the threat to do harm to the victim. The letters were sent to the victim and were sufficiently proved to warrant the verdict. No errors to the prejudice of the defendant were committed upon the trial, and the judgment should be affirmed."

Wickes had a lock box at the post office and had a stationery engraved with the heading: "Lewis Jarvis, Lock Box 101, New York." He was charged with sending letters to Edward Weston, then in Florida, urging him to settle a case.

## WOMEN HURT BY BLAST.

Rocks from the Pennsylvania Excavation Crash Through Windows a Hundred Yards Away.

Another blast in the excavation for the Pennsylvania Railroad station yesterday demolished the surrounding territory for hundreds of feet with flying rocks and slightly injured two women. Mrs. Rose P. Allen and Margaret Schuler, of No. 27 West Thirtieth street, were struck by rocks weighing about two pounds each. These rocks were driven a hundred yards through the air and smashed through windows of the flats where the women lived.

Mrs. Fallon was struck on the right shoulder and Mrs. Schuler on the left side. No arrests were made.

## COURT COMPLIMENTS BOY.

Lad Finds Money and Turns It Over to a Policeman.

Arthur H. Wright, twelve years old, found a check for \$4.50 and \$3 in money on the stairway in the Harlem Police Court yesterday. He gave the money and check to a policeman, and when Magistrate Baker heard of it he called the boy before him and questioned him. The lad said he earned \$3 a week, which he gave to his mother, a widow, living at No. 215 West Thirty-fourth street.

"That boy will make his mark in the world," said the Magistrate.

## SEEKS FOR SUGAR REBATES.

Federal Grand Jury Questions Railroad Officials as to Charges.

Officials of the New York Central Fast Freight line testified yesterday before the United States Grand Jury in connection with an alleged rebating of five cents on all freight shipped west from this city over trunk lines by the American Sugar Company.

Among the witnesses were H. T. Leasing, former manager, and R. M. Parker, manager of the traffic department of the sugar company.

## ABOUT HEIGHTON ELSBERG BILL

Senators Believe Mistake Was Made in Adopting the Grady Amendment on Wednesday.

## WOULD GIVE ALL TO MERGER

City Club's Action Expected to Have Weight with Members Who Favored the Change.

[SPECIAL DESPATCH TO THE HERALD.] ALBANY, N. Y., Friday.—Another fight will be made in the Senate to save the Rapid Transit bill by striking out the Grady amendment, which was adopted on Wednesday. The framers of the bill believe that the effect of this amendment will be to hand over to the merger all the new lines of subway that may be built in the next fifty years, thus effectually preventing competition and placing the city at the mercy of the great combination.

It is the hope of the friends of the bill that the action of the members of the City Club in rebuking its trustees and directing them to support the Elsborg bill without the amendment will have some weight upon Senators who made the apparent opposition of the City Club an excuse for striking out the provision in the bill that was intended to insure competition in transit in New York city. Mayor McClellan's vigorous attack upon the Rapid Transit Commission for the contract which it proposed to make with the Connecting Railroad is also expected to have its effect by showing that the commission cannot be trusted to safeguard the interests of the city.

Senator Elsborg will try next week to have the vote by which the Grady amendment was adopted stricken from the bill. It is now known that the change was never endorsed by the Rapid Transit Commission or by George L. Rives, one of the counsel for the commission, and that the only person outside the Legislature to advocate it openly was Albert B. Boardman. Speaker's opposition to the bill is individual responsibility. Mr. Boardman is the other counsel to the commission.

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## DIDN'T KNOW KILEY BURGLARS KILL

MARRIED ANOTHER TO GET CUSTODIAN

Nephew of Missing Banker Says He Regarded Him Simply as Uncle Who Lived in the House.

## SECOND WIFE'S STATEMENT

She Does Not Know and Does Not Care Where Bigamous Husband Is—Bank's Directors to Act.

Declaring he had never suspected his mother and uncle were married, although he had lived in No. 201 Jefferson avenue, Brooklyn, with them many years, T. Willard Kiley yesterday offered to assist the police in searching for his uncle, Thomas W. Kiley, banker and merchant and self-confessed bigamist.

Thomas W. Kiley lived with his brother, who was T. Willard Kiley's father, for several years. After his father's death, the younger man said yesterday, his uncle continued to live in the house and to care for his mother. He denied that the family had decided to keep secret the dual life of the banker. He also denied that he had received overtures from Kiley since his disappearance last Wednesday night.

Police Inspector Cross said that T. Willard Kiley's statement, stricken to the mystery of the case. All information had been refused to detectives at the Jefferson avenue dwelling, he added, Mrs. Kiley No. 1 is an invalid.

For the first time since her marriage became known Mrs. Flora B. Colt, the second wife, yesterday came out of her seclusion in her home, No. 216 Brooklyn avenue. When her son was saying he could not talk about the case she appeared on the stairs and said:

"I want to say just one word. We know nothing about Mr. Kiley. He is not in this house and I do not know where he is, and I don't care where he is."

To act on Kiley's resignation directors of the North Side Bank, Grand street, Brooklyn, of which he was for many years president, will hold a special meeting at ten o'clock this morning. One director said yesterday he always believed Kiley was a bigamist. In the last month Kiley closed several real estate transactions in Williamsburg in which he represented himself as a bachelor. A question as to the validity of these transactions has been raised.

When Constable Pullman did not return home at eight o'clock last night, his wife and mother-in-law, who were in the house, were alarmed and hurried to a neighbor's house. Pullman was one of the most popular men in the village, which took an open pride in him as a man utterly without fear, and the entire little community was soon aroused.

But the body was not found till two hours later, when Charles G. Field, a bank employee, opened the door and stumbled over the dead constable on the floor.

Several persons in the Snyder Hotel heard shots in the night. All say it was about two o'clock. One of them, Mrs. W. Woods, of Auburn, arose from bed and went to a window. She saw five men running west through Main street, but thought then they were large boys up to some prank.

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